

FINDING OF EMERGENCY

LIMITATION ON PUBLIC BENEFITS FOR ALIENS

FINDING OF EMERGENCY

The Integrated Waste Management Board (IWMB) finds that an emergency exists, and that the attached proposed regulations are necessary for the immediate preservation of the public peace, health and safety, or general welfare.

SPECIFIC FACTS SHOWING THE NEED FOR IMMEDIATE ACTION

This regulation has been promulgated to implement the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. This Act, in part, prohibits the expenditure of public funds to non-qualifying aliens. The IWMB has found that an emergency exists requiring immediate conformity with the federal mandate of this Act and that the public welfare clearly requires the immediate termination by emergency regulations of expenditures prohibited by that Act to stop the continued draining of public funds for purposes emphatically forbidden by Congress. Similar regulations have previously been held to qualify as emergency regulations by the First District Court of Appeals in Carmen Doe v. Pete Wilson (1997) 57 Cal App. 4th 296.

AUTHORITY AND REFERENCE CITATIONS

Authority: Section 40502 of the Public Resources Code

Reference: 8 U.S.C. Sections 1621, 1641 and 1642.

INFORMATIVE DIGEST/PLAIN ENGLISH OVERVIEW

Existing Law and Regulation: The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, in part, prohibits the expenditure of public funds to non-qualifying aliens. The IWMB has no existing regulations in Title 14 of the Code of California Regulations to ensure compliance with this Act.

Effect of the Proposed Regulation: The proposed regulation defines qualified aliens, sets forth a form that will be required to be filled out by each applicant for the programs identified, and sets forth verification procedures to be used. The form requires that an applicant verify that he or she is a U.S. Citizen (or a qualified alien, as defined) and provide documentation of their status (such as a birth certificate). Board staff would be required to verify the documentation with the Immigration and Naturalization Service (INS) or other appropriate agency if "the documents presented on their face do not appear to be genuine or to relate to the individual presenting them."

The five IWMB programs that could potentially provide public benefits to non-qualified aliens and would be covered by this proposed regulation are:

- Tire Recycling Grants
- Used Oil Recycling Grants
- Recycling Market Development Zone Loans
- General Contracts
- Waste Tire Hauler Registrations

Impact on Small Business: IWMB staff have determined pursuant to Government Code section 11346.2(a)(1) and 11346.5(a)(3)(B) that the proposed regulations may minimally affect small businesses by increasing the information that they must submit in their applications.

LOCAL MANDATE DETERMINATION

The IWMB has determined that the regulations will not impose a mandate on local agencies or school districts, or a cost to any local agencies or school districts that are required to be reimbursed in accordance with Government Code sections 17500 through 17630, or other nondiscretionary cost or savings to local agencies.

COST TO STATE AGENCIES AND STATE/FEDERAL FUNDING

The IWMB has determined that the proposed regulations will result in a change in costs to State agencies. There is no impact on federal funding as there is no funding from the federal government for this work.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

IWMB staff have determined pursuant to Government Code section 11346.9, that adoption of the proposed regulations: (1) will not impose a mandate on school districts, nor will they impose any non-discretionary costs or savings on them; (2) do not place a mandate on local agencies; and (3) do not impose any non-discretionary costs or savings upon local government agencies.